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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 LEON LEE MEYERS,

No. C-09-0857 TEH (PR)

12 Plaintiff,

13 v.

ORDER OF DISMISSAL WITH LEAVE
TO AMEND

14 ALAMEDA COUNTY SHERIFF, et. al.,

15 Defendants.
16 _____/

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18 On February 27, 2009, Plaintiff, a pretrial detainee
19 housed at the Alameda County Jail, Santa Rita Facility, in Dublin,
20 California, filed a pro se Complaint under 42 U.S.C. section 1983
21 alleging violations of his constitutional rights. Specifically,
22 Plaintiff alleges that: (1) beginning on April 21, 2008,
23 unidentified Santa Rita Jail officials were deliberately indifferent
24 to his serious medical needs with respect to his dental care; and
25 (2) on or around June 17, 2008, unidentified Santa Rita Jail
26 officials were deliberately indifferent to his safety by placing him
27 in a holding tank with a known enemy he knows only as "Lucky." Doc.
28 #1.

1 the Eighth Amendment's proscription against cruel and unusual
2 punishment.¹ Estelle v. Gamble, 429 U.S. 97, 104 (1976). A
3 "serious medical need" exists if the failure to treat a prisoner's
4 condition could result in further significant injury or the
5 "unnecessary and wanton infliction of pain." McGuckin v. Smith, 974
6 F.2d 1050, 1059 (9th Cir. 1992) (citing Estelle, 429 U.S. at 104),
7 overruled in part on other grounds by WMX Technologies, Inc. v.
8 Miller, 104 F.3d 1133, 1136 (9th Cir. 1997) (en banc). A prison
9 official is "deliberately indifferent" if he knows that a prisoner
10 faces a substantial risk of serious harm and disregards that risk by
11 failing to take reasonable steps to abate it. Farmer v. Brennan,
12 511 U.S. 825, 837 (1994).

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14 B

15 A pretrial detainee establishes a violation of the right
16 to personal security protected by the Due Process Clause of the
17 Fourteenth Amendment by demonstrating that prison officials acted
18 with deliberate indifference. Redman v. County of San Diego, 942
19 F.2d 1435, 1443 (9th Cir. 1991) (en banc). A prison official acts
20 with deliberate indifference only if he knows of and disregards an
21 excessive risk to inmate health or safety. Farmer, 511 U.S. at 837.
22 The official must both be aware of facts from which the inference
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25 ¹ Although Plaintiff was a pretrial detainee at the time of
26 the alleged constitutional violation, and his medical claim therefore
27 arose under the Due Process Clause, the Eighth Amendment still serves
as a benchmark for evaluating the claim. See Carnell v. Grimm, 74
F.3d 977, 979 (9th Cir. 1996) (Eighth Amendment guarantees provide
minimum standard of care for pretrial detainees).

1 could be drawn that a substantial risk of serious harm exists, and
2 he also must draw the inference. Id. Negligence is not sufficient
3 to impose liability under section 1983. Id. at 835; Frost v. Agnos,
4 152 F.3d 1124, 1128 (9th Cir. 1998). Rather, the official's conduct
5 must have been "wanton," which turns not upon its effect on the
6 prisoner, but rather, upon the constraints facing the official. Id.
7 (citing Wilson v. Seiter, 501 U.S. 294, 302-03 (1991)).

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9 II

10 A

11 Liability may be imposed on an individual defendant under
12 section 1983 if the plaintiff can show that the defendant
13 proximately caused the deprivation of a federally-protected right.
14 See Leer v. Murphy, 844 F.2d 628, 634 (9th Cir. 1988); Harris v.
15 City of Roseburg, 664 F.2d 1121, 1125 (9th Cir. 1981). Sweeping
16 conclusory allegations will not suffice; the plaintiff must instead
17 "set forth specific facts as to each individual defendant's"
18 deprivation of protected rights. Leer, 844 F.2d at 634. Even at
19 the pleading stage, "[a] plaintiff must allege facts, not simply
20 conclusions, that show that an individual was personally involved in
21 the deprivation of his civil rights." Barren v. Harrington, 152
22 F.3d 1193, 1194 (9th Cir. 1998). Although the federal rules require
23 brevity in pleading, a complaint must be sufficient to give the
24 defendants "fair notice" of the claim and the "grounds upon which it
25 rests." Erickson v. Pardus, 551 U.S. 89, 93 (2007) (citations
26 omitted). District courts, however, must afford pro se prisoner
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1 litigants an opportunity to amend to correct any deficiency in their
2 complaints. Lopez v. Smith, 203 F.3d 1122, 1126-27 (9th Cir. 2000)
3 (en banc).

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5 B

6 Persons may be joined in one action as defendants so long
7 as: (1) the right to relief asserted against each defendant arises
8 out of or relates to the same transaction or occurrence, or series
9 of transactions or occurrences; and (2) a question of law or fact
10 common to all defendants arises in the action. See Fed. R. Civ. P.
11 20(a)(2).

12
13 C

14 Here, Plaintiff's original Complaint contains an
15 allegation of deliberate indifference to his serious medical needs
16 with respect to his dental care, as well as a completely unrelated
17 claim of deliberate indifference to his safety from acts involving
18 his placement on or around June 17, 2008 in a holding tank with
19 "Lucky," a known enemy. Plaintiff does not identify by name any
20 specific Defendant who may be liable for the alleged deprivation of
21 his constitutional rights; he only names as Defendants "Alameda
22 County Sheriff (Santa Rita)" and "Prison Health Services."

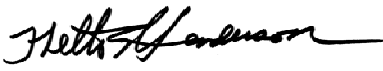
23 Plaintiff's First Amended Complaint contains a claim of
24 deliberate indifference to his safety from acts involving his
25 placement in a holding tank again with "Lucky," that occurred on or
26 around March 31, 2009, close to one year after the June 2008

1 will supersede the original Complaint and all other pleadings.
2 Claims and Defendants not included in the Second Amended Complaint
3 will not be considered by the Court. See King v. Atiyeh, 814 F.2d
4 565, 567 (9th Cir. 1987).

5 Plaintiff is further advised that he may file unrelated
6 claims against unrelated Defendants as separate civil rights
7 actions. See Fed. R. Civ. P. 20(a)(2).

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10 IT IS SO ORDERED.

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13 DATED 06/16/09



THELTON E. HENDERSON
United States District Judge